UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,827	04/09/2004	Terrence Martineau	ALC 3126	8495

7590 04/17/2007	EXAMINER
KRAMER & AMADO, P.C. Suite 240 1725 Duke Street Alexandria, VA 22314	TANK, ANDREW L

ART UNIT	PAPER NUMBER
2109	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

		Application No.	Applicant(s)
Office Action Summary		10/820,827	MARTINEAU ET AL.
		Examiner	Art Unit	
		Andrew Tank	2109	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 April 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>09 April 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/09/2004</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the original filing of April 9, 2004. Claims 1-20 are pending

and have been considered below.

2.   Examiner's Note. The Applicant appears to be attempting to invoke 35 U.S.C. 112 6th

paragraph in Claims 10-18 by using "means-plus-function" language. However, the Examiner

notes that the only "means" for performing these cited functions in the specification appears to

be computer program modules. While the claims pass the first test of the three-prong test used to

determine invocation of paragraph 6, since no other specific structural limitations are disclosed

in the specification, the claims do not meet the other tests of the three-prong test. Therefore, 35

U.S.C. 112 6th paragraph has not been invoked when considering these claims below.

Specification

3.   The abstract of the disclosure is objected to because of a minor typographical error in line

7: "GIU". Correction is required. See MPEP § 608.01(b).

Claim Objections

4.   Claims 8 and 9 are objected to because of the following informalities: typographical

errors. Both claim 8 and claim 9 claim to be child claims of claims 2 and 4 respectively.

However, they begin by "The system of..". Claims 2 and 4 are not system claims but method

claims and the examiner believes this was due to a typographical error by the applicant.

Appropriate correction is required.

Double Patenting

5.   Applicant is advised that should claim 19 be found allowable, claim 2 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

6.   Applicant is advised that should claim 20 be found allowable, claim 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8.   Claims 2, 3, 6-8 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claims 2, 3, 6-8: Claim 2 recites the limitation "said highlighted objects" in line 2.

  However, in the parent claim 1, there are both a primary object and subtended objects

  which are highlighted objects. It is unclear and indefinite whether the primary object,

  the subtended objects, or all the objects are then arranged in a specified order as in

  claim 2. The examiner will interpret this to be the subtended objects which are then

  placed in a list.

9.   Claim 12 recites the limitation "said columns" in line 2. There is insufficient antecedent

basis for this limitation in the claim. The examiner will interpret claim 12 as being dependent on

claim 11.

Claim Rejections - 35 USC § 101

10.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

11.   Claims 10-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter. Claims 10-18 are drawn to a system comprising means for

structure. The examiner has determined these structure limitations to be computer program

modules. Therefore, the system involved is a system of computer program modules. A computer

program module is not a series of steps or acts and is not a process. A computer program module

is not a physical article or object and as such is not a machine or manufacture. A computer

program module is not a combination of substances and therefore not a compilation of matter.

Thus, a computer program module by itself or in combination does not fall within any of the four

categories of invention. Therefore, claims 10-18 are not statutory.

Claim Rejections - 35 USC § 102

12.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13.   Claims 1, 2, 4-7, 9-14, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated

by HP OpenView Network Node Manager (**NNM**) v. 6.01 – 6.31, as evidenced by "A Guide To

Scalability and Distribution for HP OpenView Network Node Manager", Edition 1,

Manufacturing Part Number: J1240-90001, Copyright 1998 Hewlett-Packard Company,

http://ovweb.external.hp.com/ovnsmdps/pdf/j1240-90001.pdf (**NNM – GSD**) and "Managing

Your Network with HP OpenView Network Node Manager", Manufacturing Part Number:

J1240-90080, Copyright 2001 Hewlett-Packard Company

http://ovweb.external.hp.com/ovnsmdps/pdf/j1240-90080.pdf (**NNM - MYN**).

- Claim 1: **NNM** can be used to display highlighted objects' information on a graphical
  user interface (GUI), by:

  o highlighting a primary object on a GUI window at a selected hierarchically
    level;

  o identifying a highlighted object subtended by said primary object at a
    hierarchically next lower level;

  o selecting said highlighted object from an object storage means and placing
    same in a list of highlighted objects;

o repeating for all available hierarchical levels until all highlighted objects

corresponding to said primary objects are identified and placed in said list

(**NNM – GSD**: pages 143-144 "ovtopodump" command can display a tabled

list of node attributes, including connected stations, **NNM – MYN**: page 117-

118, page 287-288 Port-Address Mapping can show devices connected to the

given object along different ports).

- Claim 2: **NNM** shows the method as in claim 1 above, and further shows displaying

said list in a highlighted objects window where said highlighted objects are arranged

in a specified order (**NNM – MYN**: page 117-118, page 287-288 Port-Address

Mapping can show devices connected to the given object along different ports, list

sorted by Port Number).

- Claim 4: **NNM** shows the method as in claim 1, wherein said list comprises a row for

each highlighted object, and a plurality of columns, each column for providing a

specified attribute of said highlighted object (**NNM – MYN**: page 117-118, page 287-

288 Port-Address Mapping can show devices connected to the given object along

different ports).

- Claim 5: **NNM** shows the method as in claim 4, wherein said specified attributes are

the specification of said highlighted object and the name of said highlighted object

(**NNM – MYN**: page 117-118, page 287-288 Port-Address Mapping – Hostname and

Physical Address).

- Claim 6: **NNM** shows the method as in claim 2, where said highlighted objects

window displays a column for an icon visually identifying said highlighted object

(**NNM – MYN**: page 117-118, page 287-288 Port-Address Mapping – an icon is

displayed in row Port 0).

- Claim 7: **NNM** shows the method as in claim 2, wherein said highlighted objects

  window displays an object status column for defining the current status of said

  highlighted object (**NNM – MYN**: page 117-118, page 287-288 Port-Address

  Mapping – Status Column).

- Claim 9: **NNM** shows the method as in claim 4, wherein said GUI selects said

  specified order by sorting the objects in said list by any of said columns (**NNM –**

  MYN: page 117-118, page 287-288 Port-Address Mapping – sorted by Port Number).

- Claims 10 and 19: **NNM** shows a highlighted objects window system for a graphical

  user interface (GUI) of the type provided with highlighting capabilities and adapted to

  transmit commands and display information with a view to enable management of a

  communication network, said system comprising:

  - means for identifying all highlighted objects in a highlighted hierarchy

    corresponding to a primary object highlighted on said GUI; and

  - means for selecting only said highlighted objects from an object storage

    means and placing said objects in a list,

  - wherein said GUI displays said list in a highlighted objects window where

    said highlighted objects are arranged in a specified order (**NNM – GSD**:

    pages 143-144 "ovtopodump" command can display a tabled list of node

    attributes, including connected stations, **NNM – MYN**: page 117-118, page

287-288 Port-Address Mapping can show devices connected to the given

object along different ports, list sorted by Port Number).

- Claim 11: **NNM** shows the system as in claim 10, wherein said list comprises a row

  for each highlighted object, and a plurality of columns, each column for providing a

  specified attribute of said highlighted object (**NNM – MYN**: page 117-118, page 287-

  288 Port-Address Mapping can show devices connected to the given object along

  different ports).

- Claim 12: **NNM** shows the system as in claim 11, wherein said GUI selects said

  specified order by sorting the objects in said list by any of said columns (**NNM –

  MYN**: page 117-118, page 287-288 Port-Address Mapping – sorted by Port Number).

- Claim 13: **NNM** shows the system as in claim 12, wherein said highlighted objects

  window displays a column for an icon visually identifying said highlighted object

  (**NNM – MYN**: page 117-118, page 287-288 Port-Address Mapping – an icon is

  displayed in row Port 0), a column with the specification of said highlighted object

  and the name of said highlighted object (**NNM – MYN**: page 117-118, page 287-288

  Port-Address Mapping – Hostname and Physical Address).

- Claim 14: **NNM** shows the system as in claim 13, wherein said list further comprises

  an object status column for defining the current status of said highlighted object

  (**NNM – MYN**: page 117-118, page 287-288 Port-Address Mapping – Status

  Column).

- Claim 16: **NNM** shows the system as in claim 10, wherein said object storage means comprises an object library for maintaining data pertinent to all objects present at a respective network node (**NNM – MYN**: pages 68-69).

- Claim 17: **NNM** shows the system as in claim 10, wherein said object storage means comprise a connectivity database for maintaining routing data pertinent to all routes currently involving a respective network node (**NNM – MYN**: pages 68-69).

- Claim 18: **NNM** shows the system as in claim 10, wherein said highlighted objects window comprises a refresh button for updating said list (**NNM – MYN**: pages 190-192).

Claim Rejections - 35 USC § 103

14.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15.   Claims 3, 8, 15, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over HP OpenView Network Node Manager (**NNM**) v. 6.31, as evidenced by "Managing Your Network with HP OpenView Network Node Manager", Manufacturing Part Number: J1240-90080, Copyright 2001 Hewlett-Packard Company

http://ovweb.external.hp.com/ovnsmdps/pdf/j1240-90080.pdf (**NNM - MYN**).

- Claim 3: **NNM** shows the method as in claim 2 above, but does not specifically disclose that the specified order by which the list is ordered is the hierarchical order

of the objects. However, **NNM** does show sorting of the list by a column (**NNM –**

MYN: page 117-118, page 287-288 Port-Address Mapping: sorted by Port Number)

as well as how hierarchical information relates to the primary object (**NNM – MYN**:

page 117-118, page 287-288 Port-Address Mapping). Therefore it would have been

obvious to one of ordinary skill in the art at the time the present invention was made

to sort the list by the hierarchical order of the objects. One would have been

motivated to do this in order to more easily identify the source of a problem when it

occurs, providing for reduced downtime of network systems and devices (**NNM –**

MYN: page 48-50).

- Claim 8: **NNM** shows the method as in claim 2 above, but does not specifically show

  that the highlighted objects window displays a count column for counting the number

  of said highlighted objects in said list. However, **NNM** does show the numbering of

  the objects using an index (**NNM – MYN**: page 117-118, page 287-288 Port-Address

  Mapping: ifIndex column). Therefore, it would have been obvious to one of ordinary

  skill in the art at the time the present invention was made to include a count column.

  One would have been motivated to do this in order to provide a clearer view of the

  number of objects connected to a given primary object.

- Claim 15: **NNM** shows the system as in claim 13 above, but does not specifically

  show that list comprises a count column for counting the number of said highlighted

  objects in said list. However, **NNM** does show the numbering of the objects using an

  index (**NNM – MYN**: page 117-118, page 287-288 Port-Address Mapping: ifIndex

  column). Therefore, it would have been obvious to one of ordinary skill in the art at

the time the present invention was made to include a count column. One would have

been motivated to do this in order to provide a clearer view of the number of objects

connected to a given primary object.

- <u>Claim 20</u>: <u>NNM</u> shows the method as in claim 19 above, but does not specifically

  disclose that the specified order by which the list is ordered is the hierarchical order

  of the objects. However, <u>NNM</u> does show sorting of the list by a column (<u>NNM –</u>

  <u>MYN</u>: page 117-118, page 287-288 Port-Address Mapping: sorted by Port Number)

  as well as how hierarchical information relates to the primary object (<u>NNM – MYN</u>:

  page 117-118, page 287-288 Port-Address Mapping). Therefore it would have been

  obvious to one of ordinary skill in the art at the time the present invention was made

  to sort the list by the hierarchical order of the objects. One would have been

  motivated to do this in order to more easily identify the source of a problem when it

  occurs, providing for reduced downtime of network systems and devices (<u>NNM –</u>

  <u>MYN</u>: page 48-50).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Andrew Tank whose telephone number is 571-270-1692. The

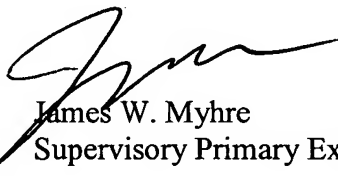examiner can normally be reached on Mon - Fri (Alt. Fri Off) 0730-1500 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Myhre can be reached on 571-270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALT
April 10, 2007

James W. Myhre
Supervisory Primary Examiner